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## Planning Commission Staff Report

**TO:** PLANNING COMMISSION

**FROM:** AMY TEMES, PLANNER II  
480-503- 6729, AMY.TEMES @GILBERTAZ.GOV 

**THROUGH:** CATHERINE LORBEER, AICP, PRINCIPAL PLANNER  
480-503-6016, CATHERINE.LORBEER@GILBERTAZ.GOV 

**MEETING DATE:** FEBRUARY 5, 2014

**SUBJECT:** Z13-39: REQUEST TO REZONE APPROXIMATELY 61.34 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF HIGLEY AND BASELINE ROADS FROM MARICOPA COUNTY RURAL – 43 (RU-43) ZONING DISTRICT TO TOWN OF GILBERT REGIONAL COMMERCIAL (RC) ZONING DISTRICT.

**STRATEGIC INITIATIVE:** Economic Development

Rezoning to conform to the Town General Plan Land Use Map and provide for future economic development.

### RECOMMENDED MOTION

**FOR THE REASONS SET FORTH IN THE STAFF REPORT, MOVE TO RECOMMEND APPROVAL TO THE TOWN COUNCIL FOR Z13-29, AS REQUESTED, SUBJECT TO THE CONDITIONS LISTED IN THE STAFF REPORT.**

## **APPLICANT/OWNER**

Company: Bowman Consulting  
Name: Troy Peterson  
Address: 1295 W. Washington St, Suite 108  
Tempe, AZ 85281  
Phone: 480-629-8830  
Email: tpeterson@bowmancg.com

Company: AZ Baseside LLC  
Name: Lance Richards  
Address: 2733 Parleys Way, Suite 300  
Salt Lake City, UT 84109  
Phone: 480-206-4645  
Email: Lrlandmark@gmail.com

## **BACKGROUND/DISCUSSION**

### **History**

<i>Date</i>	<i>Action</i>
June 2, 2009	Town Council approved A09-01 in Ordinance No. 2230, annexing 60 acres of land into the Town of Gilbert.
Sept. 5, 2013	Town Council approved Resolution No. 3189, a development agreement for reimbursement for improvements to the 60 acres at the southeast corner of Higley and Baseline Road

### **Overview**

The 60 acres at the southeast corner of Higley and Baseline Roads was annexed in 2009. In the annexation Ordinance No. 2230, the applicant agreed to rezone the property within 6 months of the annexation. No rezoning was ever filed, leaving the property without proper Town of Gilbert Zoning per Arizona Revised Statute (ARS) Sections 9-462-04(E) and 9-471(I).

In October of 2011, the Town of Gilbert filed a Complaint of eminent domain in the Superior Court of the State of Arizona to condemn a portion of the property for public right-of-way purposes. In November of 2011, the Town Council adopted Resolution No. 3099 determining that street improvements under Capital Improvement Project ST146 were necessary and that the improvement cost would be assessed against the subject property for the Baseline Road frontage.

The property owner and the Town entered into a Development Agreement pursuant to ARS 9-500.05 to facilitate the development of this property. In the agreement, the owner was required to rezone the property to match the Town of Gilbert General Plan Land Use Category for the property, dedicate to Gilbert the rights-of-way on the property, grant temporary construction easements, settle/dismiss the Complaint and determine the final amount of payment to the Town for scalloped street assessment.

Per Resolution No. 3189, and the attached Development Agreement, the owner of the subject property is obligated to rezone in conformance with the General Plan within 60 days of the pre-application meeting, held on November 25, 2013, and file a rezoning application with the Town. The rezoning application filed is in conformance with Resolution No. 3189 and with the Town General Plan as approved by the voters.

**Surrounding Land Use & Zoning Designations:**

	<b>Existing Land Use Classification</b>	<b>Existing Zoning</b>
North	Regional Commercial	Regional Commercial and General Office
South	Residential >1-2 DU/Acre	Single Family - 35
East	Residential >3.5-5 DU/Acre	Single Family – Detached
West	Shopping Center and Residential >3.5-5 DU/Acre	Shopping Center and Single Family - 6
Site	Regional Commercial	Maricopa County RU-43

**Rezoning**

The rezoning request is in conformance with the existing General Plan.

The zoning request is conventional and therefore no development plan is provided.

All development standards will be per the Land Development Code (LDC).

**PUBLIC NOTIFICATION AND INPUT**

A notice of public hearing was published in a newspaper of general circulation in the Town, and an official notice was posted in all the required public places within the Town.

A neighborhood meeting was held on November 18, 2013 at 6:00pm at the Southeast Regional Library. Approximately 8 residents attended the meeting. The residents asked questions regarding uses, connectivity, noise, hours of operation, landscape buffering and height. The Developer responded that this was not a Planned Area Development (PAD) and all development standards would be straight out of the Land Development Code. It was also noted that all uses within the Regional Commercial zoning district would be allowed and staff does not have the ability to limit uses.

Staff has received comment from the Home Owner's Association (HOA) to the east that there is concerned regarding the proposed Regional Commercial and that it is too intense of a zoning district. The HOA remarked that if some land uses were restricted that it would make them more comfortable with the proposal, especially since the property owner made it very clear at the neighborhood meeting that there is no design for the property and they don't know who will purchase and develop various parcels. Staff explained that limiting uses through zoning was not allowed and that any allowed use under Regional Commercial might be constructed. Staff also noted that this property was to be rezoned in 2009 and that the owner was obligated to rezone and be consistent with the existing General Plan Land Use Category.

**SCHOOL DISTRICT COMMENTS**

This plan is consistent with the General Plan and Staff has received no comments from the Gilbert Unified School District.

## **PROPOSITION 207**

An agreement to “Waive Claims for Diminution in Value” Pursuant to A.R.S. § 12-1134 was signed by the landowners of the subject site, in conformance with Section 5.201 of the Town of Gilbert Land Development Code. This waiver is located in the case file.

## **REASONS FOR THE RECOMMENDATION**

1. The proposed zoning amendment conforms to the General Plan as amended, any applicable Specific Area Plan, neighborhood, or other plan and any overlay zoning district.
2. All required public notice has been conducted in accordance with applicable state and local laws.
3. All required public meetings and hearings have been held in accordance with applicable state and local laws.
4. The proposed rezoning supports the Town’s strategic initiative for Community Livability. It supports the motto “Gilbert: Clean, Safe, Vibrant.”

## **STAFF RECOMMENDATION**

For the following reasons: the development proposal conforms to the intent of the General Plan and can be coordinated with existing and planned development of the surrounding areas, and all required public notice and meetings have been held, the Planning Commission moves to recommend approval to the Town Council for Z13-39 City Gate, a request to rezone approximately 60.34 acres of real property generally located at the southeast corner of Higley and Baseline Roads from Maricopa County Rural - 43 (RU-43) zoning districts to Town of Gilbert Regional Commercial (RC) zoning district, subject to the following conditions:

1. At the written request of Gilbert, Developer shall dedicate all necessary easements for new roadway improvements, including easements for drainage and retention and temporary construction easements. Failure to dedicate said easements within thirty (30) days after the date of Gilbert’s written request may result in the reversion of the zoning of the Property to the prior zoning classification.
2. Developer shall create a Property Owner’s Association (POA) for the ownership, maintenance, landscaping, improvements and preservation of all common areas and open space areas, and landscaping within the rights-of-way. Maintenance responsibilities for common areas and open space areas shall be specified on the approved site plan or final plat.
3. Developer shall record easements to be owned by the POA for pedestrian, bicycle, multi-use or trail system purposes as determined by the final plat, at the time of final plat recordation, or earlier if required by the Town Engineer. Such easements shall be open to public access and use.

4. Prior to final plat approval, Developer shall pay for its proportional share of water and sewer mains benefitting the Property, as required by the Town Engineer.

Respectfully submitted,

Amy Temes  
Planner II

**Attachments:**

Attachment 1: Notice of Public Hearing  
Attachment 2: Aerial Photo  
Attachment 3: Zoning Exhibit

# Notice of Public

## Z13-39: City Gate Attachment 1 -Notice of Public Hearing

**PLANNING COMMISSION DATE:**

**TOWN COUNCIL DATE:**

**LOCATION:** Gilbert Municipal Center, Council Chambers

**50 E. Civic Center Drive**

**Gilbert, Arizona 85296**

**Thursday, February 13, 2014\* TIME: 7:00 PM**

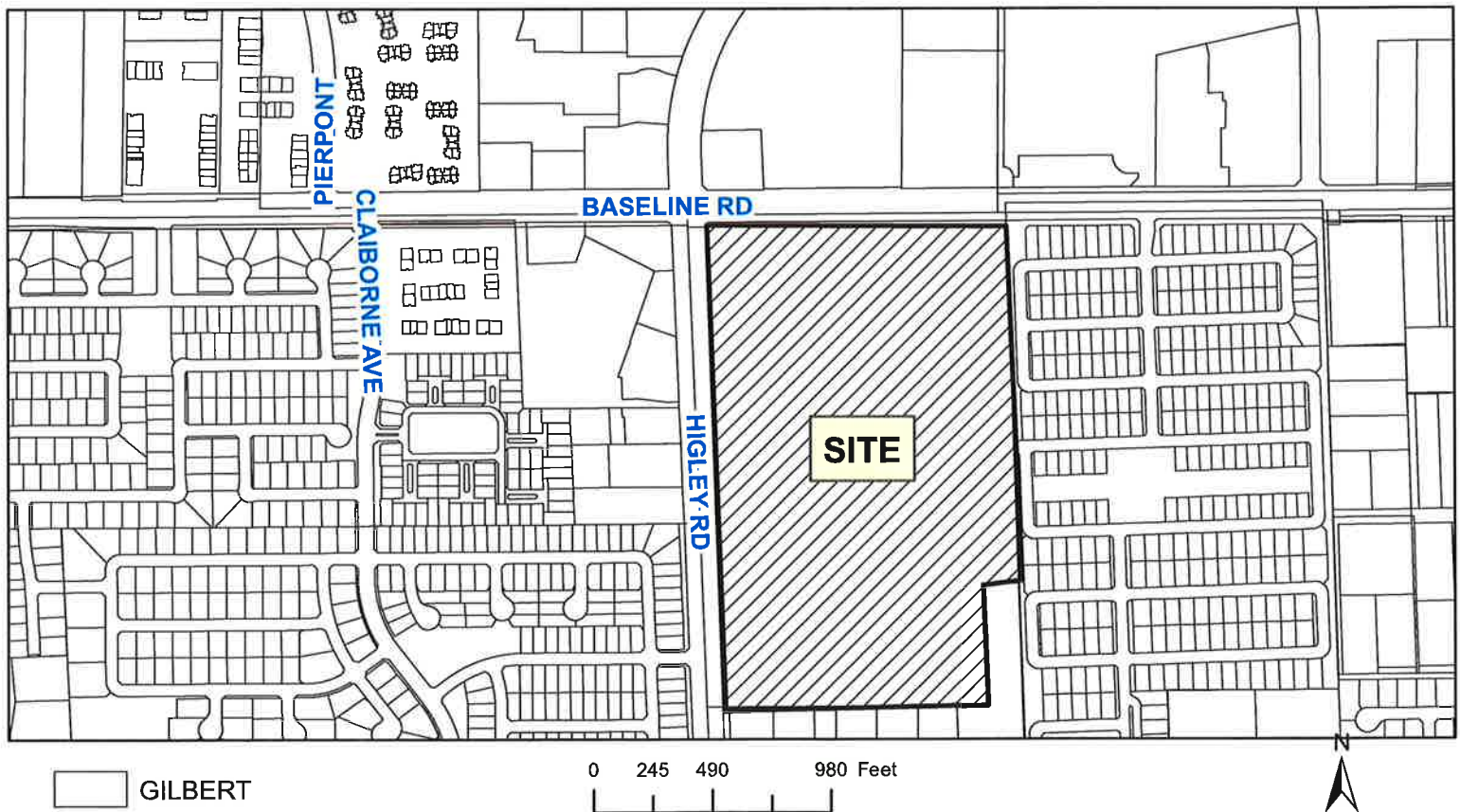
**\* Call Planning Department to verify date and time: (480) 503-6700**

### **REQUESTED ACTION:**

Z13-39: Request to rezone approximately 61.34 acres of real property generally located at southeast corner of Higley and Baseline Roads from approximately 61.34 acres of Maricopa County Rural - 43 (RU-43) zoning district to Town of Gilbert Regional Commercial (RC) zoning district. The effect of the rezoning will be to permit commercial development and conform the zoning to the Town of Gilbert General Plan. Amy Temes 480-503-6729.

\* The application is available for public review at the Town of Gilbert Development Services division Monday - Thursday 7 a.m. - 6 p.m.

### **SITE LOCATION:**



**APPLICANT:** Bowman Consulting  
**CONTACT:** Troy Peterson  
**ADDRESS:** 1295 West Washington St, Suite 108  
Tempe, AZ 85281

**TELEPHONE:** (480) 629-8830  
**E-MAIL:** [tpeterson@bowmancg.com](mailto:tpeterson@bowmancg.com)







# Z13-39: City Gate Attachment 3: Zoning Map

